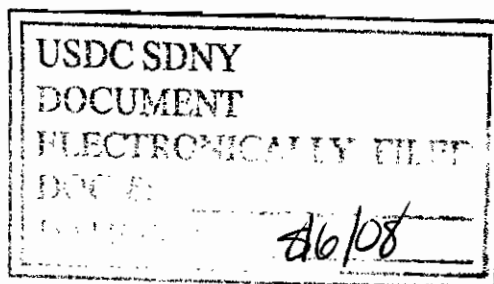


# CLYDE & CO

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July 23, 2008

**Via Facsimile: (212) 805-7941**

Honorable Loretta A. Preska  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1320  
New York, NY 10007

**Re: Fortis Corporate Insurance, etc., v. M/V "Ocean Starlet," her engines, boilers, etc., and Silver Streams Ltd.  
Index No.: 08 Civ. 3774(LAP)(MHD)  
Clyde & Co. Ref: CC/0804215**

Dear Judge Preska:

We represent the defendants in this litigation. I am writing in accordance with your Individual Rules to request that the Court schedule a pre-motion conference. This is an admiralty case involving a claim for rust damage to rolled steel coils that allegedly occurred when the steel was exposed to sea water during ocean transportation from Spain to Canada in January, 2007. The defendants intend to move to dismiss the Complaint on the grounds of improper venue, insufficiently of service of process, and lack of personal jurisdiction.

Neither the parties nor the transportation involved in this litigation has any connection with the United States. Defendant Silver Streams, Ltd., the owner of the subject vessel, is an entity organized and existing under the laws of St. Vincent and the Grenadines. It does not have any business operations in New York or anywhere in the United States. Upon information and belief, plaintiff Fortis Corporate Insurance is an entity organized and existing under the laws of Belgium, and its insured, Arcelors International, is an entity organized and existing under the laws of Canada. The ocean transportation involved was between Bilbao, Spain, and Becancour, Quebec.

Plaintiff invoked the court's admiralty jurisdiction. *See* Complaint, ¶ 1. Accordingly, the law of New York as set forth in CPLR § 302 governs the issue of personal jurisdiction in this case. *Bay Fireworks, Inc. v. Frenkel & Co., Inc.*, 359 F.Supp.2d 257, 266 (E.D.N.Y. 2005); *Atalanta Corp. v. Polskie Linie Oceaniczne*, 683 F.Supp 347, 449 (S.D.N.Y. 1988). The Complaint does not contain any allegations concerning personal jurisdiction and, in any event, under the facts involved in this case plaintiff cannot establish the existence of jurisdiction under any of the provisions of § 302. In admiralty and maritime actions, "venue and personal jurisdiction analyses merge. ... [I]f the action is

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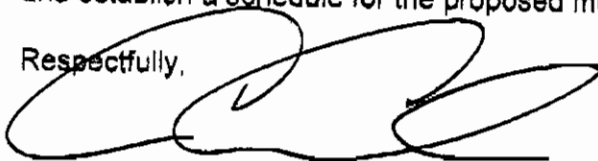
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*in personam*, venue lies wherever valid service could have been made upon the defendant." *Ferrostal, Inc. v. Hacı Hassan Yardim*, 2006 WL 2819585, \*4 (S.D.N.Y. Sept. 29, 2006) (citations and quotations omitted). Because personal jurisdiction does not exist over the defendants in this litigation, venue also is not proper in this Court, and the Complaint should be dismissed.

Moreover, even if plaintiff could establish the existence of personal jurisdiction, the parties' contract governing this transportation contains a venue selection clause providing that "[t]he contract evidenced by this Bill of Lading shall be governed and construed by English Law, and the High Court of Justice in London shall have exclusive jurisdiction over any dispute arising under this Bill of Lading." This venue selection clause is valid and enforceable, and prevents plaintiff from maintaining this action in this Court. *THE BREMEN v. Zapata Off-Shore*, 407 U.S. 1 (1972).

Accordingly, we respectfully request that the Court schedule a pre-motion conference to discuss and establish a schedule for the proposed motion to dismiss.

Respectfully,



Christopher Carlsen

CC/mv

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*Counsel for plaintiff shall respond to the  
above by letter no later than August 8, 2008.*

*So ordered  
Loretta A. Presley  
USPJ*

*August 4, 2008*